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**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

ANIBAL RODRIGUEZ, SAL CATALDO,
 JULIAN SANTIAGO, and SUSAN LYNN
 HARVEY individually and on behalf of all
 other similarly situated,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

Case No.: 3:20-cv-04688-RS

**DECLARATION OF JAMES LEE IN
 SUPPORT OF PLAINTIFFS' MOTION
 FOR CLASS CERTIFICATION AND
 APPOINTMENT OF CLASS
 REPRESENTATIVES AND CLASS
 COUNSEL**

Judge: Hon. Richard Seeborg
 Courtroom 3 – 17th Floor
 Date: October 5, 2023
 Time: 1:30 p.m.

DECLARATION OF JAMES LEE

I, James Lee, declare as follows.

1. I am a partner with the law firm of Boies Schiller Flexner LLP (“BSF”), counsel for Plaintiffs in this matter. I am an attorney at law duly licensed to practice before all courts of the State of Florida and admitted pro hac vice for this case. Dkt. 9. I have personal knowledge of the matters set forth herein and am competent to testify.

2. I submit this Declaration in support of Plaintiffs’ motion for class certification and appointment of class representatives and class counsel.

3. The three law firms representing Plaintiffs, BSF, Morgan & Morgan, and Susman Godfrey (collectively, “Counsel”), have collectively invested significant resources into investigating and litigating this case. Counsel now together move to be appointed co-lead class counsel. *See also* Bonn Declaration; Yanchunis Declaration.

4. Counsel has diligently pursued discovery into Google’s collection, storage, and use of (s)WAA-off data. Google initially proposed only three document custodians. Through Court intervention, Counsel secured an additional 25 Google custodians. Counsel’s efforts, including the filing of 18 discovery dispute letter briefs and/or motions to compel, have resulted in Google producing tens of thousands of documents, spanning over two million pages. Counsel also served 285 RFPs, 25 Interrogatories and 52 RFAs, and Counsel successfully moved for an increase to the presumptive limit of ten depositions per side, resulting in Plaintiffs taking 15 depositions of fact witnesses. Counsel retained and onboarded 30 consultants and experts to assist with day-to-day review of discovery and prepare reports.

1. Relevant Firm Expertise

5. BSF’s experience in handling complex class actions is extensive. For years, the firm has successfully litigated cutting edge, high-stakes class actions on both the plaintiff-side and defense-side, giving the firm the experience and knowledge necessary to provide the proposed classes the best representation possible. BSF has used its experience on both sides of significant class action cases to predict opposing counsel’s litigation strategy, uncover hidden leverage points,

1 anticipate key issues, and accurately assess risk and manage costs. In the last decade, BSF has
 2 collected billions of dollars in settlements for plaintiffs. But unlike many firms, BSF also has
 3 extensive experience in trying complex cases, including class actions, to verdict. Notable
 4 settlements and victories in complex cases include:

- 5 • *In re: Blue Cross Blue Shield Antitrust Litigation*: BSF serves as co-lead counsel in a
 6 class action on behalf of insureds against Blue Cross Blue Shield involving violations
 7 of the Sherman Act. The case was one of the most hotly contested cases in the last
 8 decade, involving over 30 separate defendants, more than 50 separate law firms, and
 9 over 1,000 lawyers. In 2020, Blue Cross Blue Shield agreed to settle the case for \$2.7
 10 billion, as well as injunctive relief that will impact the health insurance market across
 11 the country. The Northern District of Alabama granted final approval of the settlement
 12 on August 9, 2022.
- 13 • *Jane Doe 1 v. JPMorgan Chase & Company*: BSF serves as lead counsel on behalf of
 14 class of purported victims of sexual abuse by Jeffrey Epstein against JP Morgan Chase.
 15 Obtained a \$290 million settlement from JP Morgan Chase for allegedly enabling
 16 Epstein's sex-trafficking ring. The Southern District of New York granted preliminary
 17 approval of the settlement on June 27, 2023.
- 18 • *In re: Takata Airbag Products Liability Litigation*: BSF serves as co-lead counsel in
 19 this MDL class action involving a uniform defect in airbag inflators found in cars made
 20 by the world's largest automakers. The Takata Airbag MDL has resulted in over \$1.5
 21 billion in settlements to date, including specific protections to consumers who have had
 22 their automobiles recalled as a result of the uniform defect. BSF continues to litigate
 23 claims against non-settling parties General Motors, Fiat Chrysler, and Mercedes Benz.
- 24 • *National Prescription Opiate MDL*: BSF serves as lead counsel on behalf of the
 25 Cherokee Nation, in what was the MDL's tribal bellwether case. BSF recently secured
 26 a \$75 million settlement against the opioid distributors and is preparing for trial against
 27 the remaining defendant pharmacies Walmart, Walgreens, and CVS.

- 1 • *Hoffman v. American Express*: BSF represented American Express at trial and on
2 appeal in a certified nationwide class action where the plaintiffs sought to recover more
3 than \$500 million. American Express brought in BSF after the class was certified, and
4 BSF secured and defended on appeal a judgment in favor of American Express on all
5 claims.
- 6 • *Mikaelyan v. Howard*: BSF obtained dismissal of class action lawsuit asserting
7 violation of FACTA based on alleged printing of information on receipts, based on
8 inadequacies tied to standing and failure to adequately allege any willful violation.
- 9 • *Satchell v. Golden State Warriors*: BSF obtained dismissal with prejudice on claims
10 brought by an alleged class of millions of users seeking billions of dollars in statutory
11 damages in a data misuse class action involving sound-based beacon technology for
12 one of basketball's favorite teams.
- 13 • *Benton v. Clarity*: BSF obtained dismissal in a data misuse class action involving short-
14 term loans data, after successful motion practice, where plaintiffs sought billions of
15 dollars in damages for millions of users, on the basis of the Fair Credit and Reporting
16 Act.
- 17 • *Pavone v. LexisNexis*: BSF defeated class certification in a precedential data misuse
18 class action involving driver and vehicle data, which could have negatively affected the
19 ability to use millions of public records nationwide.

20 6. Through its creative, aggressive, and efficient approach to litigation, combined with
21 its proven track record of success, BSF has earned a world-class reputation in the class action
22 arena. The firm “is known as the go-to law firm for high stakes, high profile litigation” (*The*
23 *Washington Post*), and has been described as a firm of “casual brilliance” (*The National Journal*),
24 a “Galaxy of Bright Lights” (*The American Lawyer*), and “the most powerful litigation turbine in
25 America” (*Lawdragon*). Some of the most sophisticated companies, which have their choice of
26 virtually any law firm in the country, regularly choose BSF’s litigation expertise for their most
27 important matters. These clients include and have included, for example, Carnival Corporation,
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1 NASCAR, Oracle Corporation, Federal Express, Atria Group, NextEra Energy, the New York
2 Yankees, and Sony Corporation of America.

3 7. BSF has the depth and breadth of experience, personnel, and financial resources to
4 litigate this case effectively, and it has a track record of committing those resources to class actions
5 it has litigated and achieving exceptional results for its clients.

6 **2. Team Members**

7 8. The BSF lawyers working on this matter include managing partner David Boies,
8 partners Mark C. Mao, James Lee, Alison Anderson, and Beko Reblitz-Richardson, and associates
9 Rossana Baeza and M. Logan Wright.

10 9. **David Boies:** Mr. Boies has been the Chairman and a Managing Partner of BSF
11 since its founding in 1997. Mr. Boies has been selected as one of the 100 Most Influential People
12 in the World by Time Magazine (2010). He has been named Global International Litigator of the
13 Year by Who's Who Legal an unprecedented seven times. Mr. Boies has been named the Litigator
14 of the Year by The American Lawyer; the Lawyer of the Year by The National Law Journal
15 (twice); the Antitrust Lawyer of the Year by the New York Bar Association; Best Lawyers in
16 America from 1987–2021; Lawdragon 500 Leading Lawyers; and an Eminent Practitioner by
17 Chambers USA. He was named one of the Top 50 Big Law Innovators of the Last 50 Years by
18 The American Lawyer in 2013.

19 10. Mr. Boies is the recipient of Honorary Doctor of Laws from the University of
20 Redlands (2000), New York Law School (2007), University of New Hampshire School of Law
21 (2013), and New York University (2013) and an Honorary Doctor of Letters from the Chicago
22 Theological Seminary (2011). His awards include the Award of Merit from Yale Law School, the
23 ABA Medal from the American Bar Association, the Vanderbilt Medal from New York University
24 Law School, the Pinnacle Award from the International Dyslexia Association, the William
25 Brennan Award from the University of Virginia, the Role Model Award from Equality Forum, the
26 Lead by Example Award from the National Association of Women Lawyers, the Torch of Learning
27 Award from the American Friends of Hebrew University, the Eisendrath Bearer of Light Award
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1 from the Union for Reform Judaism, and a Lifetime Achievement Award from the Mississippi
2 Center for Justice.

3 11. Mr. Boies served as Chief Counsel and Staff Director of the United States Senate
4 Antitrust Subcommittee in 1978 and Chief Counsel and Staff Director of the United States Senate
5 Judiciary Committee in 1979. In 1991–1993, he was counsel to the Federal Deposit Insurance
6 Corporation, recovering \$1.2 billion from companies who sold junk bonds to failed savings and
7 loan associations. In 1998–2000, he served as Special Trial Counsel for the United States
8 Department of Justice in its antitrust suit against Microsoft. Mr. Boies also served as the lead
9 counsel for former Vice-President Al Gore in connection with litigation relating to the 2000
10 election Florida vote count. As co-lead counsel for the plaintiffs in *Perry v. Brown*, he won the
11 first judgment establishing the right to marry for gay and lesbian citizens under the U.S.
12 Constitution.

13 12. Mr. Boies was born in Sycamore, Illinois on March 11, 1941. He attended the
14 University of Redlands (1960–62), and received a B.S. from Northwestern University (1964), an
15 LL.B., magna cum laude from Yale University (1966), and an LL.M. from New York University
16 (1967). He is a member of Phi Beta Kappa, a Fellow of the American College of Trial Lawyers
17 and the International Academy of Trial Lawyers; and a Trustee of the National Constitution Center,
18 Cold Spring Harbor Laboratory, New York University Law School Foundation and St. Luke’s-
19 Roosevelt Hospital Center. He is the author of numerous publications including *Courting Justice*
20 (2004), *Redeeming the Dream* (with Ted Olson), and *Public Control of Business* (with Paul
21 Verkuil), published by Little Brown in 1977. He has taught courses at New York University Law
22 School and Cardozo Law School.

23 13. **Mark C. Mao:** Mr. Mao, a Partner at BSF’s San Francisco office and the Practice
24 Group Leader of BSF’s IP Litigation Practice Group, is one of the country’s leading experts in the
25 privacy field. He has resolved more than 400 cases in litigation. The consumer class actions he
26 resolves often include evolving privacy and regulatory issues, such as in the areas of data breach
27 and misuse, product liability, wiretap acts, the Fair Credit Reporting Act, and unfair and deceptive
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acts and practices litigation. Mr. Mao is certified by the International Association of Privacy Professionals and was one of its first Fellows of Information Privacy. He is also a Certified Information Privacy Technologist and a Certified Information Privacy Professional for the United States, having completed over a hundred various privacy compliance and transactional projects. In addition to having litigated important privacy cases such as *Satchell v. Golden State Warriors*, *Benton v. Clarity*, and *Pavone v. LexisNexis*, Mr. Mao's experience also includes the following representative matters:

- *Lozano v. CodeMetro*: Favorably resolved data breach class action claim in Southern California against a medical services software provider against hundreds of thousands of consumers.
- *Winstead v. ComplyRight*: Favorably resolved data breach class action claim in N.D. Ill. against publishing company against hundreds of thousands of consumers.
- *Nguyen et al. v. Caboki*: Obtained dismissal and costs against class action claims alleging illegal recording by customer support of retailer seeking tens of millions of dollars in statutory damages.
- *CFPB v. The Source For Public Data*: Obtained a district court and then an appellate court win in case against the Consumer Financial Protection Bureau alleging that a data sourcing company may be a consumer reporting agency.
- *BaronsMedia.com v. Exponential Interactive, Inc. and related cases*: Obtained favorable resolution against over a dozen business claimants, who alleged that they were substantially overcharged for years of targeted advertising services, involving hundreds of millions of transactions.
- *Koenig v. Lime Crime Inc.*: Obtained a favorable resolution in a data breach class action involving malicious code injection in one of the web's most popular social influencer websites.

- 1 • *Koles v. Yapstone, Inc. (In re Yapstone Data Breach Litig.)*: Obtained a favorable
- 2 resolution in a data breach class action involving the alleged vulnerability of a popular
- 3 payment application and relating to the records of hundreds of thousands of consumers.
- 4 • *Piper v. Brian Kemp*: Obtained a dismissal, without filing motions to dismiss, in one
- 5 of the Southern United States' largest data breaches allegedly involving over six
- 6 million vote records.

7 14. Critically, Mr. Mao designed the case theories in this case and led all pre-

8 investigation efforts. Mr. Mao graduated from the University of California, Berkeley School of

9 Law, and is currently the alumni president for the home chapter of the law school.

10 15. **James Lee:** Mr. Lee, a Partner in BSF's Miami office and Practice Group Leader

11 of BSF's Class Actions, Opt-Outs, and Multi-District Litigation Practice Group, serves as trial

12 counsel in high-stakes litigation across several practice areas. He has served as lead counsel and

13 trial counsel on behalf of plaintiffs and defendants in numerous complex matters ranging from

14 product liability, securities, and commercial litigation. He has been tapped to serve as trial counsel

15 by high profile clients such as Philip Morris USA, FedEx Ground, and some of the wealthiest

16 individuals in the world. He also has vast experience representing plaintiff classes in large scale

17 class actions, such as serving as lead counsel for BSF in its representation of the plaintiff class in

18 the Takata Airbag MDL. His work on this case helped to achieve over \$1.5 billion in settlements

19 on behalf of class members. He is currently prosecuting claims against General Motors, Fiat

20 Chrysler, and Mercedes Benz in the Takata Airbag MDL. In addition, Mr. Lee led the drafting

21 efforts for the initial complaint in this case, served as the primary contact for all of the named

22 Plaintiffs, and led the defense of their depositions. Mr. Lee graduated from Stanford Law School.

23 16. **Alison Anderson:** Ms. Anderson, a Partner in BSF's Los Angeles office, is a

24 seasoned trial lawyer with significant experience litigating complex criminal fraud trials, including

25 taking seven cases to jury trials. Ms. Anderson joined BSF in the fall of 2021 after working in the

26 Fraud Section of the Criminal Division of the U.S. Department of Justice for nearly a decade, first

27 as a trial attorney in the Securities and Financial Fraud Unit and later as an Assistant Deputy Chief

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1 in the Strategy, Policy, and Training Unit. Ms. Anderson's trial experience included co-leading the
 2 team in the high-profile *United States v. Connolly* matter, which has influenced the way corporate
 3 clients approach cooperation with government investigations and the way defense counsel are
 4 litigating these issues on behalf of individual clients. She also conducted high-profile
 5 investigations of Fortune 500 companies like Deutsche Bank and Volkswagen, securing
 6 resolutions that levied significant fines and established compliance monitorships. As an Assistant
 7 Deputy Chief, Alison oversaw the agency's recent criminal corporate resolutions with The Boeing
 8 Company, JPMorgan Chase & Co., Bank of Nova Scotia, United Airlines, Inc., and others. Since
 9 joining BSF, Ms. Anderson has worked on matters involving class actions, trade secrets, antitrust,
 10 breach of contract, and criminal defense. Ms. Anderson clerked for the Honorable Johnnie
 11 Rawlinson of the United States Court of Appeals for Ninth Circuit, and the Honorable Eduardo
 12 Robreno of the United States District Court for the Eastern District of Pennsylvania and graduated
 13 from Rutgers School of Law – Camden.

14 17. **Beko Reblitz-Richardson:** Mr. Reblitz-Richardson, a Partner at BSF's San
 15 Francisco office and a Practice Group Leader of BSF's Cybersecurity and Data Privacy Practice
 16 Group, is an experienced trial lawyer who has successfully litigated matters for plaintiffs and
 17 defendants in privacy matters and class action cases. Since joining BSF in 2005, he has obtained
 18 favorable trial and pre-trial outcomes in a number of significant class actions. To name a few, in
 19 *Hoffman v. American Express*, he represented American Express at trial, secured a judgment in
 20 favor of American Express on all claims, and then successfully defended that judgment on appeal.
 21 In *Mikaelyan v. Howard*, he obtained a dismissal of a class action lawsuit. Mr. Reblitz Richardson
 22 also represented Oracle at trial in a number of actions, including one where the firm obtained a
 23 \$1.3 billion jury verdict against SAP and one where the firm obtained an award of over \$100
 24 million against Rimini Street. Mr. Reblitz-Richardson was also a part of the team that successfully
 25 represented Starr International at trial with AIG, securing a judgment for Starr International. Mr.
 26 Reblitz-Richardson also represented the plaintiffs at trial and on appeal in their challenge to
 27 California's Proposition 8, litigation that restored the right of same-sex couples to marry in
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1 California. His other clients have included Sony, Tyco, Broadcom, HSBC, and others. Mr. Reblitz-
2 Richardson graduated from the University of California, Berkeley School of Law.

3 18. **Rossana Baeza:** Ms. Baeza, an Associate at BSF's Miami office, focuses on
4 complex and appellate litigation. She has been involved in multidistrict litigation proceedings,
5 such as the Takata Airbag MDL class action and the National Prescription Opiate MDL. She
6 represents the Cherokee Nation in the MDL's tribal bellwether case, which secured a \$75 million
7 settlement against the opioid distributors. Ms. Baeza has experience in motions practice and
8 briefing, including helping win dismissals of claims, helping successfully oppose dispositive
9 motions, and successfully obtaining a reversal in an appeal before the U.S. Court of Appeals for
10 the Tenth Circuit. Ms. Baeza graduated from Washington and Lee University School of Law.

11 19. **M. Logan Wright:** Mr. Wright is an Associate at BSF's Los Angeles office where
12 he represents both plaintiffs and defendants in litigation in federal and state courts, as well as in
13 arbitration under major arbitral rules. Before joining the firm, Mr. Wright practiced complex
14 commercial litigation at another international law firm and served as General Counsel &
15 Legislative Assistant for a member of the U.S. House of Representatives. Mr. Wright clerked for
16 the Honorable Thomas Barber of the United States District Court for the Middle District of Florida
17 and graduated with honors from Columbia Law School.

18 I declare under penalty of perjury under the laws of the United States of America that the
19 foregoing is true and correct. Executed this 20th day of July 2023, at Miami, Florida.

20 /s/ James W. Lee
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